



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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JUL 28 2016

OFFICE OF
COMPLIANCE AND ENFORCEMENT

Reply to: OCE-101

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

NOTICE OF VIOLATION

The Honorable Brian Blad
Mayor, City of Pocatello
P.O. Box 4169
Pocatello, Idaho 83205

Re: City of Pocatello WPCF
NPDES Permit Number ID-002178-4

Dear Mayor Blad:

On July 27, 2012, the U.S. Environmental Protection Agency (EPA) issued a National Pollutant Discharge Elimination System (NPDES) permit to the City of Pocatello, Idaho ("City") for its water pollution control facility ("Facility"), NPDES Permit Number ID-002178-4 ("Permit"). The Permit became effective on September 1, 2012, and will expire on August 31, 2017. The purpose of the inspection was to determine the City's compliance with the requirements of the Clean Water Act (CWA) and the NPDES Permit. The purpose of this letter is to notify you of violations EPA discovered upon review of administrative files, including the Discharge Monitoring Reports (DMRs) submitted by the City, and in response to the inspection of the Facility conducted by EPA on April 19, 2016. I would like to express my appreciation for your staff's time and cooperation during the inspection.

ADMINISTRATIVE FILE REVIEW

1. EPA reviewed DMRs from May 2011 through June 2016 and identified effluent limitation exceedances that constitute 68 violations of the CWA, 33 U.S.C. § 1251 *et seq.* A list of these violations is enclosed (Enclosure A).
2. Part I.C of the Permit states, in part, "The permittee must conduct chronic toxicity tests on effluent samples from outfall 001."

Part I.C.4 of the Permit states, "The permittee must submit the results of the toxicity tests with the discharge monitoring reports (DMR). Toxicity tests taken during the 1st quarter must be reported on the May DMR. Toxicity tests taken during the 3rd quarter must be report on the November DMR."

Part II.B.2 of the Permit states, in part, "Monitoring data must be submitted electronically to the EPA no later than the 20th of the month following the completed reporting period."

Upon review of DMRs from May 2011 through June 2016, EPA discovered the Facility did not submit the 2014 chronic toxicity test results with the November DMR, as required by the Permit. Failure to conduct the chronic toxicity text, or submit the test results, are violations of Parts I.C and I.C.4 of the Permit.

3. Part III.G.1.d of the Permit states, "The permittee must report the following occurrences of noncompliance by telephone within 24 hours from the time the permittee becomes aware of the circumstances any violation of a maximum daily or instantaneous discharge limitation for applicable pollutants identified by Part I.B, Table 1."

Part III.G.2 of the Permit states, "The permittee must also provide a written submission within five days of the time that the permittee becomes aware of any event required to be reported under subpart 1 above."

During review of the Facility's administrative files, EPA cross-referenced effluent exceedances from May 2011 through June 2016 with telephone logs and documents submitted by the Facility. As shown in Enclosure A, the Facility exceeded the instantaneous maximum for *E. coli* in March 2016. However, there is no entry in the phone log indicating that the Facility reported the violation within 24-hours of awareness of the exceedance. Further, the Facility did not provide EPA written notification of the event within 5-days of the occurrence. Failure to provide a telephonic notification within 24-hours of becoming aware of an exceedance, and a letter within 5-days thereafter is a violation of Parts III.G.1.d and III.G.2 of the Permit.

APRIL 2016 INSPECTION

1. I.D of the Permit states, in part, "The permittee must conduct surface water monitoring as indicated in Table 4 below. Surface water monitoring must be performed in accordance with the permit within 90 days after the effective date of the permit."

Part I.D., Table 4 of the Permit shows that surface water monitoring is to be continuous for river flow, temperature, dissolved oxygen, pH, and turbidity. Table 4 is enclosed (Enclosure B).

At the time of the inspection, the inspector noticed several data gaps in the Facility's annual surface water monitoring reports. There were data gaps for all parameters that require continuous monitoring with the exception of river flow. The inspector found gaps from 2012 through 2015. The Facility placed the following qualifying statement after the preface of each annual report, "Periods of missing data or *UN in data spread sheets are a result of IDEQ's findings of unacceptable QA/QC measures... Data that does not meet the QC/QA guidelines as required by IDEQ is not used in any determinations of water quality. Measures have currently been put in place to reduce the number of unacceptable QA/QC measurements from deployment records which include the use of optical dissolved oxygen probes and shorter deployment periods for sondes [sic]." The qualifying statement has been in use for the past 4-years so the effectiveness of the measures the Facility put in place are in question. Failure to monitor the above-named surface water parameters continuously are violations of Part I.D and Table 4 of the Permit.

2. Part II.C of the Permit states, "The permittee must develop a quality assurance plan (QAP) for all monitoring required by this permit. The permittee must submit written notice to the EPA and the IDEQ that the Plan has been developed and implemented within 60 days of the effective date of this permit. Any existing QAPs may be modified for compliance with this section."

Part II.C.3.b of the Permit states that the QAP must include "Map(s) indicating the location of each sampling point."

At the time of the inspection, the inspector noted that the QAP did not include a map indicating the location of sampling points. Failure to maintain a complete map showing sampling point locations is a violation of Part II.C.3.b of the Permit.

3. Part II.F.1 of the Permit states, in part, “The permittee must develop and implement an overflow emergency response and public notification plan. The plan must identify measures to protect public health from overflows that may endanger health and unanticipated bypasses or upsets that exceed any effluent limitation in the permit.”

At the time of the inspection, the inspector requested the Emergency Response and Public Notification Plan (ERPNNP) for review. The Facility provided a copy of a Disaster Management Plan (DMP). The DMP’s purpose is to “protect the waste collection and treatment system” and “to minimize the possibility of a fire, explosion or any unplanned release of hazardous waste” while the purpose of the ERPNNP is to protect public health, inform the public about hazardous overflow issues, and deal with those issues expeditiously. Since the purposes of the DMP and the ERPNNP are not the same, the Facility requires separate documents to meet Permit requirements. Failure to produce a current Emergency Response and Public Notification plan is a violation of Part II.F.1 of the Permit.

4. Part IV.E of the Permit states, “The permittee must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit.”

At the time of the inspection, the inspector observed that the Parshall Flume, used to measure effluent flow, was not in operation. The Facility representative explained that on-going construction activities had disconnected the flow meter the previous month. Many effluent calculations require flow rate to determine the quantity of a pollutant present in the water so the temporary use of an alternate method of measuring flow rate would have been prudent. Failure to measure the effluent flow rate is a violation of Part IV.E of the Permit.

5. Part III.B of the Permit states, “The permittee must either submit monitoring data and other reports in paper form, or must report electronically using NetDMR, a web-based tool that allows permittees to electronically submit DMRs and other required reports via a secure internet connection.”

Part IV.A of the Permit states, “The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification, or for denial of a permit renewal application.”

Part VI.4 of the Permit states, “Average monthly discharge limitation” means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all ‘daily discharges’ measured during a calendar month divided by the number of daily discharges measured during that month.

At the time of the inspection, the inspector noted that the Facility was not using data collected over a “calendar month”, as required by the Permit. The inspector found that the Facility adjusted its collection and data analysis so that the monitoring period would begin on a Sunday and end on a Saturday. For example, the DMR for September 2015 is comprised of data from the period of August 30, 2015 to October 3, 2015, not the calendar month of September 2015. In the example, the inclusion of data from August and October does not give an accurate portrayal of the September 2015 monthly averages.

The inspector also noted that the DMR value listed for *E. coli* was 2419 MPN/100ml. The Facility representative said that the number "2419" represented the maximum quantifiable value of the analytical method used, not a specific measurement. The Facility has a duty to follow the Permit as written unless officially modified. Failure to submit accurate data on the monthly DMRs is a violation of Parts III.B and IV.A of the Permit.

AREA OF CONCERN

1. Part I.B.3 of the Permit states, "The permittee must not discharge floating, suspended, or submerged matter of any kind in amounts causing nuisance or objectionable conditions or that may impair designated beneficial uses of the receiving water."

At the time of the inspection, the inspector noted that the oxygenation of the flow from outfall 001 caused turbulence that resulted in a foamy buildup along the bank of the Portneuf River. The Facility should minimize the foam buildup.

2. Part III.A of the Permit states, in part, "Samples and measurements must be representative of the volume and nature of the monitored discharge."

Part III.C of the Permit states, "Monitoring must be conducted according to test procedures approved under 40 CFR 136, unless other test procedures have been specified in this permit or approved by the EPA as an alternate test procedure under 40 CFR §136.5."

Table II of 40 CFR 136 does not give a maximum hold time for the "Temperature" parameter. The table states, "Analyze," in the column for "Maximum Hold Time."

Footnote 4, Table II of 40 CFR 136 states, "Samples should be analyzed as soon as possible after collection. The times listed are the maximum times that samples may be held before analysis and still be considered valid. Samples may be held for longer periods only if the permittee, or monitoring laboratory, has data on file to show that for the specific types of samples under study, the analytes are stable for the longer time, and has received a variance from the Regional Administrator under § 136.3(e). Some samples may not be stable for the maximum time given in the table. A permittee, or monitoring laboratory, is obligated to hold the sample for a shorter time if knowledge exists to show that this is necessary to maintain sample stability. See § 136.3(e) for details. The term "analyze immediately" usually means within 15 minutes or less of sample collection."

At the time of the inspection, a Facility representative told the inspector that the laboratory measures the sample temperature in the lab along with the pH sample. According to chain-of-custody records, the lab does conduct the pH analysis within the 15 minute maximum hold time described in Table II of 40 CFR 136. However, there is no maximum hold time listed for the temperature parameter. Table II of 40 CFR 136 states, "Analyze," in the column for "Maximum Hold Time". Water temperature is a parameter that quickly degrades based on factors such as ambient air temperature, humidity, and method of transport to the laboratory. The Facility should test the temperature immediately after collecting the water sample from the effluent stream.

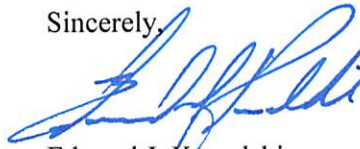
3. Part IV.F.1 of the Permit states, "Bypass not exceeding limitations. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2 and 3 of this part."

At the time of the inspection, the inspector noted that dewatering discharge was bypassing the settling ponds due to construction upgrades of the Facility. The permit allows a Facility to bypass as long as the effluent does not exceed permit limits. The Facility may require additional testing to ensure the discharge is not exceeding established limits.

Although our goal is to ensure NPDES facilities comply fully with their permits, the ultimate responsibility rests with the permittee. As such, I want to strongly encourage you to continue your efforts to maintain full knowledge of the Permit requirements, and other appropriate statutes, and to respond appropriately to ensure compliance. Notwithstanding your response to this letter, EPA retains all rights to pursue enforcement actions to address these and any other violations.

I have enclosed a copy of the inspection report (Enclosure C). If you have any questions concerning this matter, please call Raymond Andrews of my staff at (206) 553-4252.

Sincerely,



Edward J. Kowalski
Director

Enclosures

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